

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JOHN K. GOODROW,

Plaintiff,

v.

FRIEDMAN & MACFADYEN, P.A., et al.,

Defendants.

**Civil Action No.: 3:11-cv-00020-MHL
(Consolidated)**

DEFENDANTS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL AUTHORITY

The Defendants, by counsel, respectfully move the court for leave to file supplemental authority directly in support of the Defendants' Motions to Dismiss. Under the rules of this court, the parties are not entitled to file any additional papers and, therefore, under L. Rule 7(F)(I), Defendants seek leave to file supplemental authority directly bearing on the issues presented in the Defendants' Motion to Dismiss. *See Dennis v. Wells Fargo Bank, N.A.*, No. 2:11cv401-MSD (E.D. Va. Oct. 24, 2011) [ECF No. 29] (granting leave to file supplemental authority in the form of a court's hearing transcript that was not available at the time the plaintiff's response was due); *Tucker v. U.S. Bank, N.A.*, No. 4: 12cv69-AWA (E.D. Va. Nov. 28, 2012) [ECF No. 22] (granting leave to file supplemental authority of intervening district court decision bearing directly on point); *Frazier v. Experian Info. Sols.*, No. 3:11cv497-JRS (E.D. Va. Mar. 26, 2012) [ECF No. 54] (granting leave to file supplemental authority by the author of treatise relied on by the defendant); *Green v. Prudential Life Ins. Co.*, No. 3:12cv882-JAG (E.D. Va. Mar. 11, 2013) [ECF No. 35] (granting leave to file supplemental authority of intervening published Fourth Circuit decision).

In this case, the Defendants seek leave to file supplemental authority of a case from the Eastern District of Virginia that was reported only after briefing closed: *Douglas v. Branch Banking & Trust Co.*, No. 3:12cv854, 2013 U.S. Dist. LEXIS 55122 (E.D. Va. Apr. 17, 2013) (Payne, J.)

(dismissing the Douglasses' claim concerning a "bogus" appointment of a substitute trustee because "the allegation that BB&T invalidly appointed PFC as trustee does not undermine the causal event of the Douglasses' default: their failure to make payment"). The *Douglas* opinion was handed down two days before oral argument in this matter but undersigned counsel learned of it only after the argument was complete and the case was reported in Virginia Lawyer's Weekly. A copy of the opinion is filed with this Motion as Exhibit A.

DATED: May 8, 2013

Respectfully Submitted,

**FRIEDMAN & MACFADYEN, P.A.,
JOHNIE R. MUNCY, and
F&M SERVICES, L.C.,**

By Counsel

/s/ Andrew Biondi

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CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of electronic filing (NEF) to the following:

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